

Dan Mulligan (Cal. State Bar No. 103129)
JENKINS MULLIGAN & GABRIEL LLP
10085 Carroll Canyon Road, Suite 210
San Diego, CA 92131
Telephone: 415-982-8500
Facsimile: 415-982-8515

Peter B. Fredman (Cal. State Bar No. 189097)
LAW OFFICE OF PETER FREDMAN
125 University Ave, Suite 102
Berkeley, CA 94710
Telephone: (510) 868-2626
Facsimile: (510) 868-2627
peter@peterfredmanlaw.com

Attorney for Plaintiff MARIE GAUDIN,
for herself and persons similarly situated

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARIE GAUDIN, individually, and on behalf of others similarly situated,) Case No. C 11-01663-JST
Plaintiff,)
v.)
SAXON MORTGAGE SERVICES, INC. a Texas corporation.)
Defendant.)

CLASS ACTION

DECLARATION OF DANIEL J. MULLIGAN, ESQ. IN SUPPORT OF MOTION FOR CLASS CERTIFICATION AND APPOINTMENT OF CLASS COUNSEL

Hearing Date: June 20, 2013
Hearing Time: 1:30 p.m.
Courtroom 9, 19th Floor, SF
Hon. Jon S. Tigar

1 I, Daniel J. Mulligan, declare as follows:

2 1. I am a partner in the law firm of Jenkins Mulligan & Gabriel LLP, one of counsel
3 of record for plaintiff in this action. I am admitted to practice in the State of California (1982)
4 and to the Federal District Courts of this state. I am also admitted to practice before the Fifth and
5 Ninth Circuit Court of Appeal. The statements in this declaration are based upon my personal
6 knowledge and, if called as a witness, I could and would competently testify thereto.

7 2. As more fully set forth in the attached Firm Resume, the Firm has extensive experience in
8 prosecuting large complex claims involving, *inter alia*, cases which center on allegations of
9 unfair trade practices, unfair business practices, fraud, misrepresentation, breach of contract and
10 breach of duty involving consumers, property owners, lending institutions and loan-servicing
11 companies. Partners of the firm have appeared as lead counsel and/or assistant lead counsel in
12 various Municipal, Superior, U.S. District and Bankruptcy courts, preparing and trying cases in
13 each of these forums. The firm's partners have also prepared and/or argued matters before the
14 federal and state appellate courts.

15 3. In addition to these broad types of cases, the firm has regularly been appointed
16 lead or co-counsel in class action cases in federal, state and bankruptcy courts throughout the
17 country. The firms principals began their class practice in the mid-1980's and have prosecuted
18 such class claims through trial and appeal in various courts. Further, the firms principals have
19 unique and extensive experience litigating claims involving lending practices, including the class
20 claims against Lehman Brothers in the First Alliance Mortgage Litigation (see, *Henry v. Lehman*
21 (In re First Alliance Mortgage), 471 F.3d 977 (2006) *Austin v. Chisick*, 289 B.R. 652 and class
22 claims against Beneficial Finance (see, *Lealao v. Beneficial California*, 82 Cal.App.4th 19). The
23 principals were also co-lead counsel in some of the largest consumer class settlements ever
24 obtained in the United States.

25 4. My partners and I have no known actual or potential conflicts with members of
26 the class and will assiduously prosecute this action to its conclusion.

1 I declare under penalty of perjury under the laws of the United States that the foregoing is
2 true and correct. Executed this 12th day of April, 2013 at San Diego, California.
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

/s/ Daniel J. Mulligan

LAW OFFICES

JENKINS MULLIGAN & GABRIEL LLP

FIRM RESUME

Jenkins, Mulligan & Gabriel LLP is a nationally known litigation and consumer rights law firm which focuses on complex litigation matters, particularly consumer issues that affect large numbers of the general public and have widespread social impact. The firm also has a substantial practice in complex insurance and bankruptcy litigations, as well as homeowner issues. Dating back to 1982, the firm's principals have been co-counsel or lead counsel on many of the nation's most significant and challenging complex class action and insolvency matters, which resulted in recoveries in excess of the hundreds of millions of dollars for the firm's clients. The firm's principals acted as lead or co-lead counsel in such nationally known cases insolvency cases such as Executive Life Insurance Company, First Alliance Mortgage Company, the bankruptcy of Orange County, and the Natural Gas Class Action Litigations. Other significant class action litigations in which the firm's principals acted as lead counsel include claims against Household International and Fairbanks Capital Corp., which produced settlement funds of approximately \$140 million and \$50 million, respectively.

Recent and Active Representations:

The firm is currently acting as special litigation counsel to the Examiner in the bankruptcy case, *In re CenterStaging Musical Productions, Inc.*, Case No.: 2:08-bk-13019-VZ, (suit against officers and directors for breach of fiduciary duty), and is working with another firm as Committee Counsel in the bankruptcy case, *Estate Financial Inc.*, Case No.: 08-11457-RR, a chapter 11 case involving a mortgage broker fraud affecting over 1600 investors (total investment in excess of \$350 million) in 550 properties. The firm is also lead counsel in a class action brought on behalf of investor/members of limited liability investment companies formed by Quality Home Loans. The case is pending in the bankruptcy court, *In re Quality Home Loans*, Case No.: SV 07-13006 GM.

Other recent and active representations include employment / wage and hour class actions: *In re Wachovia Securities, LLC, Wage and Hour litigation*, (Master File No: SA CV 05-1031 DOC); *In re Ann Taylor Wage and Hour Litigation*, (LASC No.: BC342729) (consulting role); Anti-trust class actions: *In re W. States Wholesale Natural Gas Antitrust Litig.*, (MDL 1566, CV-S-03-1431-PMP (PAL), BASE FILE, MDL 1566, CV-S-04-0465-PMP (PAL)); *In Re TFT-LCD (Flat Panel) Antitrust Litigation*, (USDC ND Cal. 07-cv-1827); *In re Graphics Processing Units Antitrust Litigation*, (USDC ND Cal. 07-cv-1826); *In re Flash Memory Antitrust Litigation* (USDC ND Cal. 07-cv-86); *In re LTL Trucking Anti-Trust Litigation* (MDL: Georgia); and *In re Ammari Electronics v. SBC Communications; Koszdin Fields et al v. Pacific Bell Directory*, Alameda Superior Court Nos.: RG05198014; RG05 220096 (Class Action).

Prior Representations:

The firm has been appointed special or lead litigation counsel in numerous bankruptcy and class action proceedings. The principals represented the Liquidating Trustee in the First Alliance

TEL: 415-982-8500
JMGLAWOFFICES.COM

Mortgage bankruptcy in a \$400 million equitable subordination claim against Lehman Brothers, Inc. (a claim based upon “aiding and abetting” a mortgage fraud program); the Chapter 11 trustee *In the bankruptcy of Magic Ford*; and the receiver in the matter of *Norman David Stark/JPS Corporation*, [131 Cal. App. 4th 184 (2005), cert denied Case No. S136969, Oct 19, 2005]], the first reported case involving the use of a receiver by a state agency involving a criminal business enterprise (Penal Code §186.11). Other reported cases involving the firm’s principals are: *Lealao v. Beneficial California*, 82 Cal.App.4th 19 (2000)[class action against Beneficial California, Inc., for wrongfully charging a penalty when persons with whom it entered into certain credit line account agreements prepaid their open-end loans, as the imposition of such a penalty was neither provided for in the agreement nor otherwise authorized; case settled for \$14,500,000]; *Austin v. Chisick* (In re First Alliance Mortg.Co.), 289 B.R. 652(2003); *Texas Life, Accident, Health & Hospital Service Insurance Guaranty Association v. Gaylord Entertainment Company*, 105 F.3d 210 (5th Cir. 1997); *Board of Trustees of the Maryland Teachers & State Employees Supplemental Retirement Plans v. Life and Health Insurance Guaranty Corporation*, 335 Md. 176; 642 A.2d 856 (1994); *In Re Executive Life Insurance*, 32 Cal. App. 4th 344; 38 Cal. Rptr. 2d 453 (1995); *State Street Bank & Trust Company v. Mutual Life of New York*, 811 F. Supp. 915; (SDNY, 1993); *Federal Deposit Insurance Corporation v. Imperial Bank*, 859 F.2d p.101 (9th Cir. 1988); *Seven Elves, Inc. v. Eskinazi, et al*, 635 F.2d 396 (5th Cir. 1981).

Education, Community Activities and Awards:

The firm’s principals are actively involved in a variety of educational and community activities. The firm’s principals have assisted the Legal Aid for the Elderly in San Francisco and Alameda counties by presenting seminars and helping to develop outreach programs to the elderly in an effort to prevent mortgage and home improvement frauds; and prepared video presentations for training of attorneys in foreclosure and lending practices, utilized by the Bay Area Legal Aid, and the San Francisco, Santa Clara, San Mateo and Contra Costa County Bar Associations. They have served as professors of law at colleges and universities and as elected public officials. They have also drafted and testified on legislation in both Sacramento, California and Washington D.C. on consumer and banking legislation. The firm’s principals have lectured before the California Attorney’s General, the National Consumer Law Center, the National Association of Consumer Advocates, the Practicing Law Institute, the American Conference Institute, the California Bar Association and the American Bar Association. The firm’s contribution to the consumer rights field has been recognized by numerous bar associations and organizations over the years. In 1999, the American Bar Association awarded the firm with its Pro Bono Publico Award in recognition of its public service, the first small firm entity to ever receive this accolade. Other awards include: Outstanding Volunteer in Public Service - Bar Association of San Francisco, 1995; Outstanding Senior Advocate for 1994 - awarded to Mr. Mulligan by State Senator Milton Marks; Public Service Award - Bar Association of San Mateo county – 1996; Outstanding Volunteer in Public Service - Bar Association of San Francisco - 1998 -2000; Justice Philanthropist Award -- Bar Association of San Francisco; awarded to the firm for providing funding and access for low income persons; State Senate of California Outstanding Volunteer – awarded to Mr. Mulligan in 2004; Center for California Homeowner Association Law Service Award – awarded to Mr. Mulligan in 2009.

The Principals

Larry W. Gabriel

Mr. Gabriel specializes in complex business, insurance and insolvency litigation. He is admitted to practice in Illinois (1974) and California (1976). He is a graduate of De Paul University (J.D., 1974) and Southern Illinois University (B.A., 1970). Mr. Gabriel is a member of the Los Angeles County and American Bar Associations (Member: Business Law Section, Commercial Financial Services Committee, Insurance Insolvency Task Force; Tort and Insurance Practice Section). His civic and educational activities include serving as an Adjunct Professor (Business Law) College of the Desert (2005 -). In addition he served on the City Council, City of Hidden Hills, California (1997-2002) and was the City's Mayor Pro Tem (1998-2002). He was a representative to the Las Virgenes Council of Governments (2000-2002) and served as the Planning Commissioner for the City of Hidden Hills (1991-1993). Other activities include: Adjunct Professor of Law, Banking, Pepperdine University (1987-1989); Judge Pro Tem, Beverly Hills Municipal Court (1982-1990); Board of Directors, Calabasas Country Club (President, 2004-5). In addition, Mr. Gabriel has authored several articles including: "1994 Receivers and Guaranty Funds in Life Insurance Insolvency Proceedings: The Need For Reform," ABA National Institute; "Solvency Concerns With Foreign Insurers and Reinsurers/Recent Developments/US Reform Efforts," 1994; "Pension Phantasmagoria," Business Insurance, September 6, 1993; "Check Kiting - The Implications of a Discovering Bank's Actions on Its Right of Recovery," Banking News, November 15, 1982, reprinted Independent Banker, January, 1983; "Ramifications of a Check Kite - Liability Between Banks," Pacific Banker and Business, March, 1983.

Dan Mulligan:

Mr. Mulligan is a graduate of University of California Berkley (BA Economics, (1975); MA Economics (1981); J.D. (1982). He has specialized in anti-trust and consumer matters, including class litigation. He is recognized as a leading member of the plaintiffs' bar on consumer issues, particularly consumer lending. He is also one of the founders of the Center For California Homeowner Law and served on its board of Directors. He regularly speaks on homeowner association issues and for meetings of the California State Bar Association, the American Bar Association, the Practicing Law Institute and the American Conference Institute.

Tom Jenkins:

Mr. Jenkins is a graduate of California State University, Northridge and Lincoln Law School. He has been an outspoken advocate for California homeowners since 1983. He has drafted legislation in this area and testified many times before the California Assembly and Senate. Mr. Jenkins was also involved in negotiations in 1985 leading to revamping the trustee fee charges and the pricing of Trustee Sale Guarantees in California.